

FRALEX

Thematic Study on the
Rights of the Child
(Child Trafficking)

Slovakia
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Executive Summary

- [1.] The Slovak Republic has signed practically all the important international documents relevant to the child trafficking issues, except of the Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse (2007). The relevant provisions of the international documents were transposed into Slovak legislation, especially into the Criminal Code, however the definition of “child trafficking” is inaccurate.
- [2.] According to Slovak law¹ “child trafficking” encompasses illicit adoption of children and commending a child to a third person for using the child to work or for other purposes. The rest of the activities regarding “child trafficking” are incorporated into the general provisions concerning trafficking in human beings. Such division is confusing.
- [3.] The Slovak Republic did not elaborate a special National plan of action against child trafficking, the relevant issues are dealt within the General National Plan of Action against Trafficking for the years 2008-2010. The first National plan was elaborated for the years 2006-2007. Based on the National plan the Minister of Interior established an expert group against trafficking in human beings. This group consists of the representatives of the ministries, other state authorities and non-governmental organisations.
- [4.] The main responsibilities in the field of combating trafficking in human beings lay on the Ministry of Interior. The ministry has also a dedicated budget for relevant activities, which include also necessary measures concerning identification, care and protection of the victims of trafficking, preventive activities, trainings and education of stakeholders, research and data collection mechanisms and an information system. Most of the activities are realised in close cooperation with non-governmental organisations, which are responsible in particular for providing comprehensive assistance to the victims, including accommodation, psychological, social and legal aid, services of translation and others.
- [5.] The expert group shall coordinate the activities following from the tasks assigned by the National plan of action against human trafficking for the years 2008-2010. The expert group shall also draft agreements between relevant state authorities, municipalities and non-governmental organisations, support research concerning trafficking, monitor development trends and propose relevant strategic measures. The expert group shall also lead information campaigns concerning human trafficking, participate in systematic education of key players, propose new legislations and develop and promote international

¹ Slovakia/zákon 300/1995 (20.05.2005).

cooperation. The expert group shall cooperate with a range of differently skilled professionals.

- [6.] There are no formal cooperation agreements among ministries and other relevant public authorities concerning trafficking, however, according to their own expression they closely cooperate on day-to-day base. The Slovak Republic has signed a few bilateral agreements with the third countries outside of the EU concerning cooperation to combat organised crime, a few of them explicitly deal with cooperation in human trafficking issues.
- [7.] Since 2006 a few training activities aimed at the prevention of the trafficking in human beings took place. The beneficiaries of these trainings, workshops and conferences were mostly representatives of the ministries, social bureaus, state police and municipal police, other state and municipal authorities, medical workers and teachers. There were also some projects and workshops designated for potential victims of trafficking, especially for secondary school students and also for members of the Roma-communities and other socially excluded and endangered people. The main goal of these activities was to increase awareness and knowledge in young women and girls, as well as relevant public authorities, concerning the dangers, risks and consequences of human trafficking.
- [8.] The Slovak Republic has a quite new law concerning welfare and legal protection of children², which shall guarantee the full protection and care to the child, including unaccompanied children within the territory of the Slovak Republic, in his/her best interest. In accordance with the law and in respect to the Civil Procedure Code any child without a guardianship or any child in a situation when his/her life, health and/or personal situation can be seriously harmed shall be appointed a legal guardian.
- [9.] The appointed guardian shall, among other activities, participate in the search for the parents or other relatives of an unaccompanied child. However, there are no provisions guaranteeing the tracing of family members in the country of origin of the child and there are also no provisions requiring assessing a child's best interests concerning assistance in family reunification. There are only general provisions stating that measures taken up to protect a child shall respect his/her best interest in terms of the Convention of the Rights of the Child.
- [10.] Foreigners – victims of trafficking – are guaranteed tolerated residence in the Slovak Republic for the maximum of 40 days, or for the maximum of 180 days in case of children. None of the legal provisions guarantee a “reflection period” of minimum 30 days, but only a ministerial decree (not generally binding) guarantees the period of 40 days. During this period victims can be provided with accommodation. Children are accommodated in a special institute for

² Slovakia/zákon 305/2005 (25.05.2005).

unaccompanied children. After they file a petition for asylum, they get removed to the refugee camps or other facility.

- [11.] The legal guardians or the workers of the special institute for unaccompanied children are required to respect a child's upbringing, cultural and religious differences. A child has a right to participate in all decision-making concerning him-/herself, he/she must be informed in a for him/her understandable language and in a way he/she can understand the content of the process. All this must be done prior to any decision in the case has been taken.
- [12.] A victim of trafficking, including a child, can participate in a programme of support and protection for victims of human trafficking. They are provided with assistance to safeguard protection of their dignity, fundamental rights and freedoms. Persons enrolled in the programme are motivated to participate in criminal investigation related to their case.
- [13.] Trafficked children as any other children (especially under 15 years of age) are entitled to special, child-sensitive procedures in front of police, prosecutor or court. Slovak legislation guarantees special treatment also to any witness whose life or health is in danger. An endangered witness can be involved in the witness protection programme and his/her identity can be covered.
- [14.] Different police departments, the General Prosecutor Office, the Ministry of Justice and the Ministry of Interior provide statistics concerning trafficking in human beings, however, the data differs and it is not possible to identify the correct statistics. This is mostly due to different data stored and due to a lack of an united system of data collection and information registers.

1. General anti-child trafficking framework

1.1. Ratification of the international legal instruments

- [15.] The Slovak Republic has signed and ratified almost all the significant international legal instruments as follows: Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (25.06.2004, entered into force on 25.07.2004), UN Convention against transnational organised crime/Palermo Protocol to prevent, suppress and punish trafficking in persons (03.12.2003, entered into force on 02.01.2004), ILO Convention Nr. 182 on the worst forms of child labour (20.12.1999, entered into force on 20.12.2000), CoE Convention on Action against trafficking in human beings 27.03.2007, entered into force on 01.02.2008). All these documents form a part of the Slovak legal system.
- [16.] However, the Slovak Republic has not signed and ratified the CoE Convention on the protection of children against sexual exploitation and sexual abuse.

1.2. National legal provisions concerning child trafficking

- [17.] Legal provisions criminalising child trafficking are encompassed in Criminal Law.³ The legal definition of trafficking in human beings is based on the Palermo Protocol which is to prevent, suppress and punish trafficking in people, and it is almost identical to the definition set up by The Council of European Convention on Action against trafficking in human beings. There are a few minor differences arising from a more detailed and comprehensive definition.
- [18.] According to Slovak Criminal law “trafficking in human beings” shall mean “such activity when a person by means of fraudulent activity or of deception, of restriction of personal freedom, of force or threat of force, of threat of other serious harm or other forms of coercion, of receiving or giving of payments or other benefits to achieve the consent of a person having control over another

³ Slovakia/zákon 300/2005 (01.01.2006)

person, or of the abuse of position or abuse of helplessness or other forms of vulnerable position for the purpose to entice, transport, harbour, render or receipt other person, despite of his/her consent, for the purpose of his/her prostitution or other forms of sexual exploitation including pornography, forced labour or forced services, slavery or practices similar to slavery, servitude, removal of organs, tissues or cells, or other forms of exploitation”.⁴ Slovak legal definition includes also restriction of personal freedom, threat of other serious harm or other forms of coercion as specific means. Besides removal of organs Slovak law mentions also removal of tissues and/or cells.

- [19.] Child trafficking is contained within the criminal act of “trafficking in human beings”. Slovak law stipulates that the enticement, transportation, harbouring, rendering or receipt of a person under eighteen years of age, despite of his/her consent, for the purpose of prostitution or other forms of sexual exploitation including pornography, forced labour or forced services, slavery or practices similar to slavery, servitude, removal of organs, tissues or cells, or any other form of exploitation shall be criminalised.⁵ The means of acting are not explicitly stipulated if child trafficking is involved.
- [20.] Slovak legislation encompasses also a crime “Child trafficking”, however, this refers to illegal adoption (when a person commends a child to be under another person’s authority in contradiction with generally binding legal regulations for the purpose of adoption) or to commending a child to the third person for the purpose of using child to work or for other purposes.⁶ This kind of definition of child trafficking is confusing and is not expressing reality.
- [21.] However, Slovak law does not encompass explicitly drug dealing and/or forced marriages as forms of trafficking. There are only general provisions set mentioning “other forms of exploitation” or “other forms of sexual exploitation”.
- [22.] In the case where there are some rights guaranteed by international treaties which are not incorporated into Slovak national legislation there are constitutional provisions ensuring priority and direct applicability of international conventions. Slovak Constitution⁷ stipulates that “International treaties on human rights, fundamental freedoms and other international treaties for which exercise a law is not necessary and international treaties which directly confer rights or impose duties on natural persons or legal persons, which were ratified and advocated in the way laid down by law shall have

⁴ Article 179 paragraph 1 of the Criminal Code, Slovakia/zákon 300/2005 (20.05.2005).

⁵ Article 179 paragraph 2 of the Criminal Code, Slovakia/zákon 300/2005 (20.05.2005).

⁶ Article 180 paragraph 1 and Article 181 paragraph 1 of the Criminal Code, Slovakia/zákon 300/2005 (20.05.2005).

⁷ Slovakia/ústava 460/1992 (01.09.1992).

precedence over the laws”.⁸ This provision shall guarantee direct applicability of international standards set up by international treaties and conventions. Each court in the Slovak Republic is bound by this constitutional provision. According to the Slovak Constitution “Interpretation and enforcement of the constitutional laws, laws and other generally binding legal provisions must be done in concordance with this Constitution”.⁹ However, there is no case law on use of principle of direct applicability of international standards on child trafficking.

[23.] Any action involving children shall be executed in accordance with the Law on Welfare and Legal Protection of Children.¹⁰ According to law “welfare and legal protection of children” shall mean a set of complex measures to safeguard the protection of a child and which are necessary for the benefit of the child and which shall respect his/her best interest according to international treaty.¹¹ The term “Child” shall include:

- A child with permanent residence, temporary residence, or tolerated residence.
- A child with Slovak citizenship that is living in another country.
- A child who is not a Slovak citizen but is living unaccompanied in the Slovak Republic.

[24.] Aside from children this law shall also apply to adults up to 25 years of age. According to this law all the authorities executing measures on the law on welfare and legal protection of children are responsible to protect children’s rights from threat and/or damage and all the authorities are obliged to guarantee all the necessary protection which is essential for children’s benefits and for the protection of their interests.

[25.] Apart from the above mentioned provisions of the Law on Welfare and Legal Protection of Children there are no special provisions establishing the principle of best interest of the child as a primary consideration for all actions. The Constitution does not lay down such principle. Therefore it is necessary to use the combination of the definition of the “best interest” principle defined by the law and by the international standards and to enforce it by using direct applicability of the international conventions and treaties as set up by the Constitution.

⁸ Article 7 paragraph 5 of the Constitution of the Slovak Republic, Slovakia/ústava 460/1992 (01.09.1992).

⁹ Article 152 paragraph 4 of the Constitution of the Slovak Republic, Slovakia/ústava 460/1992 (01.09.1992)

¹⁰ Slovakia/zákon 305/2005 (01.09.2005).

¹¹ Article 1 paragraph 2(a), Slovakia/zákon 305/2005 (01.09.2005).

1.3. National Plan of Action against Trafficking

- [26.] The National plan of action against trafficking in human beings for the years 2008-2010 has been adopted by the government.¹² The National plan deals with the general problem of trafficking. It is based on the cooperation between various state departments and non-governmental organisations in serving to the victims of trafficking. It follows several priorities such as research into trafficking in people and collecting relevant information to work out and refine effective strategies against trafficking, its prevention and the education of employees of state authorities in dealing with issues related to trafficking in people, and information campaigns aimed at potential victims.
- [27.] The first National plan of action against trafficking in human beings for the years 2006-2007 was adopted by governmental ruling¹³ and relevant experiences are not many. The specialised department of Prezídium Policajného zboru [the Presidium of the Police office] registered mainly international forms of trafficking in people where victims were transferred to third party countries. Trafficking in people on a national level is mostly characterised as pimping and prostitution, sexual abuse and sexual exploitation.
- [28.] Since there is no specialised National plan of action against child-trafficking a general National plan of action against trafficking refers to the National plan of action for children¹⁴ in issues related to children. This National plan deals with the general protection of children, it pays specific attention to children in need of protection against violence, negligence and abuse. According to the National plan of action against trafficking it was inevitable to work out a new National plan of action for children and The Ministry for Social Affairs in the Slovak Republic was obliged to develop such a plan by 31.03.2008. However the deadline has elapsed and there is still only a draft of the new National plan of action for children for the years 2008-2012.¹⁵

¹² Slovakia/uznesenie vlády 251/2008 (23.04.2008)
[http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/$FILE/Zdroj.html) (23.06.2008)

[http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/\\$FILE/vlastnymat.rtf](http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/$FILE/vlastnymat.rtf) (23.06.2008)

¹³ Slovakia/uznesenie vlády 3/2006
[http://www.rokovania.sk/appl/material.nsf/0/382ED86F9654A4EEC12570FB003E58EF/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/382ED86F9654A4EEC12570FB003E58EF/$FILE/Zdroj.html) (23.06.2008)

¹⁴ Slovakia/uznesenie vlády 837/2002.

¹⁵ <https://lt.justice.gov.sk/Attachment/vlastny%20material.doc?instEID=-1&attEID=483&docEID=3543&matEID=160&langEID=1&tStamp=20080708165319327> (08.07.2008)

- [29.] According to the draft of the National plan of action for children in connection with the National plan of action against trafficking a plan was set up to create a program to support and protect minors as victims of trafficking. The government departments responsible are to be The Ministry of Social Affairs, The Ministry of Interior and The Ministry of Education together with the International Organisation for Migration. The deadline for this plan was set for the year 2009.
- [30.] There are various data collection mechanisms within different state departments: The Ministry of Justice monitors relevant criminal cases dealt with by the courts; The Ministry of Interior, the Presidium of the Police office and the General Prosecutor's offices monitor other information. The information system "OBEĽ" [victim] provided by The Ministry of Interior was created for the purpose of coordinated gathering of statistic information concerning trafficking in people. Statistic information shall be regularly updated by The Ministry of Foreign Affairs with information gathered from consular offices of the Slovak Republic in other countries.
- [31.] Data monitoring is not united and the collected information concerning the number of cases, offenders and victims varies depending on the department collecting information. Each of the relevant body uses its own methodology and concentrate on different aspects. As a result of this disunited system data concerning investigation of trafficking in human beings is unreliable. Data varies also due to the fact that during police investigations new victims are identified and these figures are not registered in official statistics. See attached tables. There is no special monitoring mechanism such as independent National Rapporteurs established in the Slovak Republic. In addition to the above mentioned competencies of state institutions there is no National Referral Mechanism or other systematic, formalised and standardised instrument for cooperation and referral addressing also the rights of trafficked children.
- [32.] According to the National plan of action against trafficking for the years 2008-2010 main activities are to be executed by The Ministry of Interior. The budget allocated for these activities within The Ministry of Interior is as follows: 8,300,500 SKK for the year 2008; 8,430,500 SKK for the year 2009; 8,800,000 SKK for the year 2010. Other ministries or state authorities do not have any special budget designated for anti-trafficking measures.
- [33.] There is no special budget for The Ministry of Interior to support research on child trafficking.¹⁶ However, according to the National plan of action against trafficking there are specifically allocated finances for certain activities during the years 2008-2010 (see attached table).

¹⁶ Response of the The Ministry of Interior to the Information Request, 02.07.2008.

- [34.] Based on the National plan of action against trafficking in human beings The Minister of Interior created an expert group against trafficking in human beings.¹⁷ This expert group is a multi-department body consisting of also representatives from non-governmental organisations. The chairman of the expert group is also a national coordinator for anti-trafficking issues. The mission of the expert group is specified in the charter of the expert group against human trafficking, according to which the expert group shall coordinate activities related to fulfilling tasks in anti-trafficking issues, participate in the preparation of agreements among representatives of the Police force, state authorities, municipalities and non-governmental organisations, evaluate activities arising from the National plan of action against trafficking in human beings. The expert group shall also coordinate research concerning trafficking, prepare information campaigns, participate in the education of responsible state authorities employees, prepare legislative proposals and support international cooperation in anti-trafficking issues. There is no other relevant authority dealing solely with the rights of victims of child trafficking. All work of the expert group also covers children as victims.
- [35.] In addition to the expert group there is also Rada vlády pre prevenciu kriminality [Government Council of the Slovak Republic for Crime Prevention].¹⁸ The Government Council for crime prevention is operating on a more general level as an advisory and coordinating authority in issues to prevent delinquency and other anti-social activities, including also trafficking in human beings.
- [36.] One of the strategic goals set up by the National plan of action against trafficking is to educate the employees of relevant state authorities, municipalities and non-governmental organisations in identifying and communicating with victims of trafficking. The first draft for the systematic education of all departmental employees involved in tasks resulting from the National plan of action against trafficking in human beings was developed by the first expert group against trafficking in human beings in the year 2007. During the years 2006-2007 a few educational workshops focussing on the rights of victims of trafficking¹⁹ were set up for public authorities and municipalities, as well as judges and prosecutors (through the Judicial Academy).²⁰
- [37.] For the year 2008 The Ministry of Interior issued a plan of educational events for different groups: investigators and police, street workers, social field workers involved with Roma communities, employees of educational departments, employees of social affairs departments, social workers within the Migration Office, Church representatives as well as employees of Slovak

¹⁷ Slovakia/rozkaz ministra vnútra Slovenskej republiky 22/2008 (30.06.2008).

¹⁸ <http://swww.minv.sk/prevencia/index.php?idx=pages/uvod> (10.07.2008).

¹⁹ Response letter of The Ministry of Justice to the information request, 02.07.2008.

²⁰ Response letter of the Ministry of Justice to the information request, 02.07.2008.

consular offices. Seminars and workshops will be carried out with the cooperation of non-governmental organisations, The Ministry of Social Affairs, The Ministry of Education, The Migration Office and The Ministry of Foreign Affairs. The agenda of the seminars was drafted by The International Organisation for Migration. The Ministry of Interior intends to train over 300 participants during educational sessions.²¹

[38.] The Ministry of Interior issued a manual for members of the police force concerning the identification of victims and provision of necessary assistance. The Presidium of Police office in cooperation with the office of the General Prosecutor issued a methodical manual for the investigation of crimes of trafficking.²²

[39.] In addition to the Ministry of Interior other public authorities will also carry out workshops: The Police Academy in cooperation with the non-governmental organisation Inštitút pre verejnú správu [Institute for Public Administration] will produce and execute an educational project for municipalities. The Ministry of Social Affairs drafted a systematic educational program aimed at the prevention and elimination of violence towards women and children, which shall also encompass activities to increase awareness and the distribution of information concerned with trafficking. These workshops have been designated for municipalities, state administration, police, prosecutors and judges. The Government Council of the Slovak Republic for Crime Prevention will coordinate an educational project on human trafficking specifically for municipal police members. The Ministry of Health of the Slovak Republic through The Slovak Medical University shall provide postgraduate studies for medical workers concerning medical assistance to the victims of trafficking.²³

1.4. Policy of non-criminalisation of victims

[40.] The Slovak legal system does not explicitly exclude child victims of trafficking from criminalisation if their behaviour is considered a crime. However, there are a few provisions in relevant legislation preventing such a child from being punished with criminal penalties:

- Nobody can be held criminally responsible under the age of 14²⁴; in the case of a crime of sexual abuse a person must be at least 15 years old to be responsible for the crime. Moreover, a person under 15 years of age cannot

²¹ Plan of trainings for 2008, attachment to the Response of the Ministry of Interior of the Slovak Republic to the information request, 02.07.2008.

²² http://www.dotyk.sk/04-projekty/index.php?rid=projekt_07 (23/06/08)

²³ Report on fulfilment of the tasks arising from the National plan of action against trafficking in human beings for the years 2006-2007, accepted by the Slovak government, Slovakia/uznesenie vlády 320/2007 (04.04.2007).

²⁴ Article 22 of Criminal Code, Slovakia/zákon 300/2005 (01.01.2006).

be held responsible for his/her actions if his/her intellectual or moral state of mind would not allow him/her to recognise the illegality of a criminal act.²⁵

- If a child (or adult) victim of trafficking is also charged with criminal charges related to trafficking, criminal proceedings can be terminated by a prosecutor or by a judge in a case when the victim remarkably cooperates with police and/or prosecutor to reveal organised crime or crime committed by a criminal organisation.²⁶
- The Criminal Code lists a set of mitigating factors²⁷, which can be used to lower punishment under certain circumstances, for example if a crime was committed under threat or coercion, if a crime was committed in a situation not caused by the person, if a crime was committed under oppressive personal or family circumstances not caused by the person, if a person helps to reveal the crime or if a person contributes to disclose an organised crime.
- The Criminal Code enables the court to decide about exceptional reduction of punishment if regular punishment would be disproportionately severe, or if an offender remarkably assists with revealing a crime involving organised crime.²⁸

[41.] Criminal proceedings cannot commence or must be terminated if it is stipulated by the international agreement.²⁹ This provision could be used in connection with Article 26 of the Council of Europe Convention on Action against Trafficking in Human Beings (2005) and/or Article 26 paragraph 3 of the United Nations Convention against Transnational Organised Crime. However, this assumption cannot be confirmed by any case law since The Ministry of Justice does not have such judgements at its disposal³⁰ and general courts are reluctant to provide judgements to an applicant who is not a party of proceedings.

²⁵ Article 95 paragraph 1 of Criminal Code, Slovakia/zákon 300/2005 (01.01.2006).

²⁶ Article 215 paragraph 4, article 281 paragraph 2 of Criminal Procedure Code, Slovakia/zákon 301/2005 (01.01.2006).

²⁷ Article 36 of Criminal Code, Slovakia/zákon 300/2005 (01.01.2006).

²⁸ Article 39 paragraph 1,2 of Criminal Code, Slovakia/zákon 300/2005 (01.01.2006).

²⁹ Article 9 paragraph 1(g) of Criminal Procedure Code, Slovakia/zákon 301/2005 (01.01.2006).

³⁰ Decision of The Ministry of Justice not to reveal the information requested, 02.07.2008.

2. Prevention of child trafficking

- [42.] Preventative action against human trafficking is based on the National plan of action against trafficking and is conducted by state institutions, public authorities, non-governmental organisations and consular offices of the Slovak Republic in other countries and the activities are focussed on certain vulnerable groups of people. In the year 2008 The Ministry of the Interior signed an agreement with five non-governmental organisations: Slovenské krízové centrum DOTYK (SKC DOTYK) [Slovak Crisis Centre DOTYK], Civic association Prima, The International Organisation for Migration (IOM), The Cultural association of Roma of the Slovak Republic and Slovak Catholic Charity. These organisations shall participate in providing complex assistance to the victims of trafficking, including accommodation, psychological and legal assistance.³¹
- [43.] In Slovakia trafficking mostly affects the poor and unemployed part of the population and those with low level of education, among them Roma are the most vulnerable.³² Prevention of trafficking is one of five priorities which form part of the approved Strategy of crime prevention in the Slovak Republic for the years 2007-2010.³³ Beneficiaries of most of the projects were among employees of state authorities, police offices, prosecutors and judges. However, some of the projects were carried out to benefit potential victims of trafficking.
- [44.] A Project “Crisis Intervention and Social Inclusion of victims of human trafficking in cooperation with The Police, public administration and municipalities” was realised in cooperation with the non-governmental organisation SKC DOTYK in 2006. The main beneficiaries were third and fourth grade of secondary schools students (aged from 17-19).³⁴
- [45.] The International Organisation for Migration in cooperation with the Foundation Fund Accenture and the Foundation Pontis realised the project “Trafficking prevention for teachers and students of secondary schools” in January and February 2007. The main goal was to increase awareness in young students (age 14-19) concerning the dangers of human trafficking and to identify prevention possibilities through discussion groups at secondary

³¹ See <http://www.minv.sk/?tlacove-spravy&sprava=do-boja-proti-obchodovaniu-s-ludmi-mv-sr-tento-rok-investuje-8-milionov-korun> (25.06.2008)

³² National plan of action against trafficking in human beings for the years 2006-2007.

³³ Slovakia/uznesenie vlády 681/2007 (15.08.2007).

³⁴

[http://www.rokovania.sk/appl/material.nsf/0/F5A1E9CABC49EAD9C12572B10032F68B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/F5A1E9CABC49EAD9C12572B10032F68B/$FILE/Zdroj.html) (25.06.2008).

boarding schools. The project was realised with the assistance of peer activists and involved 449 students in discussion groups.³⁵

- [46.] Problems of trafficking prevention and raising awareness were incorporated into the pedagogical organisations instructions for the school year 2006-2007. According to the instructions debates with psychologists in cooperation with the International Organisation for Migration shall become part of educational curriculum. The Ministry of Education insists on detailed information concerning possible risks working abroad distributed among female students at secondary schools.³⁶
- [47.] The International Organisation for Migration has realised many different projects in the field of trafficking prevention in Slovakia since the year 2002. The project “Prevention of Trafficking in Slovak Women” an information campaign forming part of a complex approach of help to victims was realised from December 2002 to March 2004. The main goal was to increase awareness and knowledge in young women and girls, as well as relevant public authorities, concerning the dangers and consequences of human trafficking. The main beneficiaries of the research, media campaign, discussions at secondary schools, round-tables in various regions, expert workshops and telephone lines for victims were young women and girls, professionals (police, social workers) and the broader public and media. Another project “Awareness-raising in female secondary schools students concerning human trafficking” was realised from April 2004 to January 2005. The main beneficiaries of the interactive discussion groups and information booklet were female and male secondary schools students and teachers.³⁷
- [48.] There were also prevention projects which were not exclusively or directly targeted to children, however the main beneficiaries of these projects were vulnerable groups of people, potential or real victims of trafficking, including children.
- [49.] The Ministry of Interior issued an internal decree “On securing support and a protection programme for victims of trafficking”.³⁸ Based on the decree there were signed cooperation agreements between The Ministry of Interior and the non-governmental organisations: SKC DOTYK, Civic Association Prima and Civic association STORM. A leaflet to help the victims of trafficking was issued as part of a promotional campaign. The leaflet in 9 languages (including

³⁵[http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/$FILE/Zdroj.html) (23.06.2008).

³⁶[http://www.rokovania.sk/appl/material.nsf/0/F5A1E9CABC49EAD9C12572B10032F68B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/F5A1E9CABC49EAD9C12572B10032F68B/$FILE/Zdroj.html) (25.06.2008).

³⁷[http://www.rokovania.sk/appl/material.nsf/0/E5B90723F1B11FC6C12570EA004D1D64/\\$FILE/priloha_3.rtf](http://www.rokovania.sk/appl/material.nsf/0/E5B90723F1B11FC6C12570EA004D1D64/$FILE/priloha_3.rtf) (23.06.2008).

³⁸ Slovakia/nariadenie ministra vnútra 65/2006 (26.12.2006).

Roma language) was distributed among members of endangered groups of people (potential victims) as well as directly to the real victims of trafficking.³⁹

- [50.] Another project “All for one – one for all” was realised in cooperation with the Union of Prevention Centres and Aid Dafne, Civic association VEDAM, Bureau of social and family affairs in Dolny Kubin and the Bureau of social and family affairs in Zilina. The main goal of the project was in the creation and testing of innovative solutions against discrimination of socially excluded people (victims of trafficking and prostitution), endangered people and the Roma minority. The project was realised through progressive educational methods (theatre forum) and the main beneficiaries are media, public representatives, public administration institutions, police, prosecutors, non-governmental organisations, the Roma minority and socially excluded and endangered citizens.⁴⁰
- [51.] A joint project between the Government Council of the Slovak Republic for Crime Prevention, International Organisation for Migration, Regional Bureaus from Kosice and Presov, The Ministry of Interior and the Department of Criminal Law at the law School of the University of P.J.Safarik in Presov was realised in September 2007 in two regions – The Kosice region and The Presov region, the regions with the highest Roma population. The main goal of the “Information campaign on the impact of Schengen on the citizens of Slovakia and the risks of human trafficking” was to inform representatives of public administration, municipalities, teachers and students, representatives of non-governmental organisations, municipal police offices, church representatives and community centres and to train coordinators at primary and secondary schools. All together there were over 2,000 people and 24 media representatives addressed.⁴¹
- [52.] Albeit there were not special preventive activities concerning Roma people, most of them were targeted to the children and youth, including the Romas. Many projects were realised in the Eastern part of the Slovak Republic due to the highest concentration of Roma population living there.
- [53.] In the year 2006 Law on Residence of Aliens was amended⁴² in accordance with Council Directive 2004/81/EC (29.04.2004). According to the amendment⁴³ the residency of a victim of trafficking can be legalised by granting tolerated residence status. Unaccompanied children are granted tolerated residence upon

³⁹ http://www.doty.sk/04-projekty/index.php?rid=projekt_07 (25.06.2008),
[http://www.rokovania.sk/appl/material.nsf/0/893E88A83F83CD75C125743900362F6D/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/893E88A83F83CD75C125743900362F6D/$FILE/Zdroj.html) (25.06.2008).

⁴⁰ [http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/$FILE/Zdroj.html) (23.06.2008).

⁴¹ [http://www.rokovania.sk/appl/material.nsf/0/893E88A83F83CD75C125743900362F6D/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/893E88A83F83CD75C125743900362F6D/$FILE/Zdroj.html) (25.06.2008).

⁴² Slovakia/zákon 48/2002 (01.04.2002).

⁴³ Slovakia/zákon 693/2006 (06.12.2006).

their arrival. Due to the late transposition of the relevant provisions this directive was applied directly during the period from 06.08.2006 to 01.01.2007. To overcome an unfavourable situation the Director of the Úrad hraničnej a cudzineckej polície Prezídia Policajného zboru [Boundary and Alien Police Bureau of the Presidium of Police force] issued an instruction concerning victims of trafficking.

- [54.] According to the Law on Residence of Aliens in connection with the Law on Welfare and Legal Protection of Children⁴⁴ unaccompanied child will be located in a special institute for unaccompanied children or (if such a child is an asylum seeker) in a refugee camp with guaranteed assistance in accordance with the Law on Welfare and Legal Protection of Children.

⁴⁴ Slovakia/zákon 305/2005 (25.05.2005)

3.Appointment of legal guardian

- [55.] According to the Slovak legal system any unaccompanied child or any child without proper guardianship shall immediately be provided with a guardian. Civil Procedure Code stipulates that if a child finds himself/herself in a position without any guardianship or if his/her life, health or personal situation is seriously endangered or disturbed a court shall appoint that child an interim guardian. The court shall commence such proceedings *ex officio* or upon the action of the welfare protection authority.⁴⁵ According to the Law on Welfare and Legal Protection of Children⁴⁶ in connection with the Family Law⁴⁷ the bureau of social and family affairs shall carry out the duties of a guardian. This applies to any unaccompanied child regardless of whether he/she is identified as a victim of trafficking. However, there are no legal provisions regarding the appropriate time for preparation of cases for the legal guardian. The law does not set any specific time.
- [56.] The Law on Welfare and Legal Protection of Children guarantees the necessary protection of a child for his/her well-being and the respect of his/her best interests in accordance with the Convention on the Rights of the Child (1989). Protection is also guaranteed to a child (up to 18 years old) with permanent, temporary or tolerated residence in the Slovak Republic, to an unaccompanied child and also to a young adult (up to age of 25 years old) with residence in the Slovak Republic (including tolerated residence) or to an adult with a normal residence in the Slovak Republic.⁴⁸ It is clear that guardianship for an unaccompanied child is guaranteed at least until the age of 18 years. There are neither legal provisions nor age assessment or a policy concerning benefit of a doubt in relation to guardian appointment.
- [57.] However, the clause on benefit of doubt concerning the unaccompanied child's age is incorporated in the Asylum Law.⁴⁹ An asylum seeker is obliged to undergo medical examination in case there are doubts about his/her age. If his/her legal representative (guardian) does not issue consent for the purpose of the medical examination the asylum seeker is considered to be adult. However, if despite medical examination it is impossible to determine the real age of an applicant such applicant is considered to be a child for the purpose of asylum procedure.
- [58.] A victim of trafficking can be integrated into a programme of support and protection for victims of trafficking, if a victim meets the prescribed conditions.

⁴⁵ Article 75a paragraph 1, Slovakia/zákon 99/1963 (04.12.1963).

⁴⁶ Article 73 paragraph 2(b), Slovakia/zákon 305/2005 (25.05.2005).

⁴⁷ Article 57 paragraph 3, Slovakia/zákon 36/2005 (19.01.2005).

⁴⁸ Article 1 and 2, Slovakia/zákon 305/2005 (25.05.2005).

⁴⁹ Article 23 paragraph 7, Slovakia/zákon 480/2002 (20.06.2002).

The programme was established by The Ministry of Interior.⁵⁰ If a victim is enrolled into the programme he/she is provided with protection and guardianship. An alien victim is a person without Slovak citizenship with the suspicion that he/she was a victim of trafficking in Slovakia. Then such a victim has a 40 day period to recover and during this period he/she can receive guardianship, including social, psychological and legal aid. In the case where such a victim is granted tolerated residence (in terms of Law on Residence of Aliens), the period of such residence can be repeatedly extended for at least 180 days. If such a person cooperates with the police or prosecutor in an investigation into trafficking this assistance is provided for the whole time of the investigation procedure.⁵¹ However, due to the restricted definition of a victim-alien in terms of the decree, the decree shall not apply to an alien victim of trafficking if the crime occurred outside of the Slovak Republic.

- [59.] Beginning in 2008, the Ministry of Interior in cooperation with the Ministry of Social Affairs shall complete yearly training of selected employees from social and family affairs bureaus and also social workers. The main goal is to increase the proficiency of people working with endangered groups in terms of human trafficking. The Ministry of Social Affairs created a national plan of action to prevent and eliminate violence against women for years 2005-2008, which also encompasses provisions on providing assistance to women facing violence.
- [60.] There is no information available concerning specialised training for legal guardians representing child victims of trafficking. However, there were some projects and workshops with the participation of social and family affairs bureaus. Among them there was the project “All for one – one for all” which was realised in cooperation of Union of Prevention Centres and Aid Dafne, Civic association VEDAM, Bureau of social affairs and family in Dolny Kubin and Bureau of social affairs and family in Zilina. The main goal of the project was in the creation and testing of innovative solutions against the discrimination of socially excluded people (including victims of trafficking and prostitution), and also potential victims. The main beneficiaries of the project were media, public representatives, public administration institutions, police, prosecutors, non-governmental organisations, the Roma minority and socially excluded and endangered members of the population.

⁵⁰ Slovakia/nariadenie ministra 47/2008 (30.06.2008).

⁵¹ Article 6, Slovakia/nariadenie ministra 47/2008, (30.06.2008).

4. Coordination and cooperation

- [61.] There is no formalised Task Force on child trafficking in the Slovak Republic. However, there is a body dealing with the general problems of human trafficking including child trafficking. The Minister of Interior established an expert group against human trafficking.⁵² This expert group replaces the previous expert group created in 2006 by the former ministerial order.⁵³ The expert group consists of representatives of the Ministry of Interior and other ministries, the Police Force, the Government Council of the Slovak Republic for Crime Prevention, the Migration office, the Slovak Republic Government Office, the Bureau of the Government Commissioner for Roma Communities, the General Prosecutor, the Association of Cities and Villages, the International Organisation for Migration and of representatives from selected non-governmental organisations.
- [62.] The expert group shall coordinate in fulfilling tasks assigned by the National plan of action against human trafficking for the years 2008-2010. The expert group shall also draft agreements between relevant state authorities, municipalities and non-governmental organisations, support research concerning trafficking, monitor development trends and propose relevant strategic measures. The expert group shall also lead information campaigns concerning human trafficking, participate in the systematic education of key players, propose new legislations and develop and promote international cooperation. The expert group shall cooperate with a range of differently skilled professionals.
- [63.] There exists no special cooperation agreements concerning child trafficking between relevant ministries, however, state authorities closely cooperate in fulfilling their duties.⁵⁴
- [64.] Public authorities cooperate with non-governmental organisations. In the year 2007 The Ministry of Interior signed agreements with SKC DOTYK, Civic association Prima and Civic Association STORM.⁵⁵ For the year 2008, the Ministry of Interior signed agreements with SKC DOTYK, Civic association Prima, Cultural association of Roma of the Slovak Republic, the Slovak Catholic Charity. The International Organisation for Migration is also involved.⁵⁶ The main role of non-governmental organisations is to provide

⁵² Slovakia/rozkaz ministra vnútra 22/2008 (30.06.2008).

⁵³ Slovakia/rozkaz ministra vnútra 35/2006.

⁵⁴ Response of the Ministry of Social Affairs to information request, 11.07.2008.

⁵⁵ [http://www.rokovania.sk/appl/material.nsf/0/F5A1E9CABC49EAD9C12572B10032F68B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/F5A1E9CABC49EAD9C12572B10032F68B/$FILE/Zdroj.html) (23.06.2008)

⁵⁶ <http://www.minv.sk/?tlacove-spravy&sprava=do-boja-proti-obchodovaniu-s-ludmi-mv-sr-tento-rok-investuje-8-milionov-korun> (25.06.2008).

complex care for the victims of trafficking, including personal safety, safe temporary and anonymous accommodation, fulfilment of basic needs, psychological, social and legal assistance, education, assistance in reintegration, and the arrangement of social assistance on return to the country of origin.⁵⁷

- [65.] The bilateral cooperation agreement between the Slovak Republic and countries of origin outside the EU mostly deals with the general concept of organised crime. These are agreements between the Slovak Republic and Turkey,⁵⁸ Turkmenistan,⁵⁹ Croatia,⁶⁰ Ukraine,⁶¹ Belarus,⁶² Egypt⁶³ and Moldova.⁶⁴ Some of the agreements, though, explicitly mention human trafficking such as the agreement with Kazakhstan.⁶⁵ Some of the agreements were approved by the government but these agreements have not been signed and published yet. There is the proposal of an agreement with Serbia⁶⁶ and Bosnia and Herzegovina.⁶⁷ However, this agreements deals with trafficking in general, none of them mention special cooperation in the field of child trafficking.
- [66.] There are no special legal provisions concerning protection of personal data of the child victims of trafficking. A ministerial decree⁶⁸ refers to general legislation which is the Personal Data Protection Act.⁶⁹ Personal data is subject to protection and can be revealed only upon prior consent of the person concerned or only in accordance with the law.
- [67.] There is also no information available concerning the existence of support programmes as a part of Member States' international development assistance in countries of origin or within the EU-area.

⁵⁷ <http://www.dotyk.sk/01-profil/index.php> (11.07.2008).

⁵⁸ Slovakia/oznámenie 160/1997 (06.06.1996).

⁵⁹ Slovakia/oznámenie 52/2000 (08.08.1996).

⁶⁰ Slovakia/oznámenie 278/2001 (30.11.2000).

⁶¹ Slovakia/oznámenie 282/2001 (05.12.2000).

⁶² Slovakia/oznámenie 407/2003 (14.11.2001).

⁶³ Slovakia/oznámenie 233/2005 (20.01.2004).

⁶⁴ Slovakia/oznámenie 423/2007 (20.06.2007).

⁶⁵ Article 1 (6), Slovakia/oznámenie 222/2008 (21.11.2007).

⁶⁶ <http://www.rokovania.sk/appl/material.nsf/0/B230974A889120AFC12572250039DCFD?OpenDocument> (11.07.2008).

⁶⁷ <http://www.rokovania.sk/appl/material.nsf/0/B08D1F4FFDA77390C1257171002D7DF7?OpenDocument> (11.07.2008).

⁶⁸ Article 11(e), Slovakia/nariadenie ministra vnútra (30.06.2008).

⁶⁹ Slovakia/zákon 428/2002 (03.07.2002).

5. Care and protection

5.1. Reflection period and residence of victims of trafficking

- [68.] Residency of victims of trafficking is regulated by the Law on Residence of Foreigners:⁷⁰ “The police department shall issue a permit of tolerated residence to a foreigner who is a victim of a crime related to human trafficking if such a person is at least 18 years old.”⁷¹ Tolerated residence for a victim of trafficking is granted for maximum period of 40 days, irrespective of the victim’s cooperation with police and/or prosecutor. This period shall be extended for a minimum of 180 days (also repeatable) if the reasons for tolerated residence still exist and the presence of the person is necessary for further criminal investigation. The person may not contact anyone who is suspected of a crime.⁷² The period of 40 days is considered to be a “reflection period”.⁷³
- [69.] However, the above mentioned provisions do not apply to a child victim. According to the Law on Residence “Police department shall issue a permit of tolerated residence to a foreign child found in the territory of the Slovak Republic”.⁷⁴ The period of tolerated residence for a child (including a child victim of trafficking) is granted for a maximum of 180 days and this period can be extended repeatedly.⁷⁵
- [70.] The ministerial decree grants complex care for a foreign victim during the recovery period of 40 days, this period can be extended repeatedly to a minimum of another 180 days.⁷⁶ However, a law is a generally binding provision, while a ministerial decree is binding only for the minister’s subordinated subjects.
- [71.] Based on the above mentioned provisions there are a few problematic points concerning the reflection period:
- there is no bottom line on length of a reflection period for a victim and the legal provisions do not guarantee the minimum period of 30 days; a victim is

⁷⁰ Slovakia/zákon 48/2002 (13.12.2001).

⁷¹ Article 43 paragraph 1(e), Slovakia/zákon 48/2002 (13.12.2001).

⁷² Article 43 paragraph 6 and 7, Slovakia/zákon 48/2002 (13.12.2001).

⁷³ [http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/$FILE/Zdroj.html) (23.06.2008)

⁷⁴ Article 43 paragraph 1(d), Slovakia/zákon 48/2002 (13.12.2001).

⁷⁵ Article 43 paragraph 3 and 4

⁷⁶ Article 6 paragraph 2, Slovakia/nariadenie ministra vnútra 47/2008 (30.06.2008).

granted tolerated residence for a maximum of 40 days, which in reality can be even less than 30 days,

- a child victim of trafficking is considered under different provisions of the law; a child is granted tolerated residence for maximum 180 days, but the law is able to deem that period less than 30 days,
- the Law on Residence of Foreigners does not even mention the term “reflection period“.

[72.] The Ministry of Interior shall guarantee proper accommodation for a victim of trafficking with a permit for tolerated residence, if such a person is not able to find accommodation by himself/herself.⁷⁷ However, this legal provision does not apply to a child victim, only to a victim at least 18 years old.

[73.] The Law on Welfare and Legal Protection of Children shall be applied concerning child victims of trafficking. The court shall decide if an unaccompanied child will be located into a special institute for unaccompanied children.⁷⁸

[74.] According to the ministerial decree a victim of trafficking (child or adult) shall be entitled to anonymous accommodation upon request. The accommodation is part of the intricate care provided to the victim which lasts for 40 days and can be prolonged if a person cooperates with police/prosecutor.⁷⁹ However, as mentioned above, the ministerial decree is binding only for subordinated subjects of the minister.

[75.] There are no statistics available concerning the number of children being granted temporary stay on grounds of trafficking (2000-2007). Perhaps one of the reasons is the confusing definition of “child trafficking” in the Criminal Code (see chapter A of this study). According to The Ministry of Interior at present there is no victim of trafficking registered under the age of 18 years.⁸⁰

5.2. Administrative detention

[76.] There is no legal provision explicitly and completely prohibiting the detention of children. However, there are only limited reasons for the detention of children.

[77.] A foreigner can be detained for a maximum period of 180 days for the purpose of:

⁷⁷ Article 43 paragraph 8, Slovakia/zákon 48/2002 (13.12.2001).

⁷⁸ Article 50, Slovakia/zákon 305/2005 (25.05.2005).

⁷⁹ Article 6 and 7, Slovakiai/nariadenie ministra vnútra 47/2008 (30.06.2008).

⁸⁰ Response of the Ministry of Interior to the information request, 02.07.2008.

- administrative deportation of the foreigner,
- execution of his/her transport (related to asylum procedure),
- his/her return in case of illegal entering into the Slovak Republic.

[78.] A child without a legitimate guardian cannot be detained at all.⁸¹

[79.] Based on the above mentioned reasons for detention, a child victim of trafficking can be detained for only one reason. A child under 18 cannot be deported from the country (unless deportation is in favour of a child),⁸² so the first reason for detention cannot be applied. A child victim of trafficking shall be granted tolerated status and that is why such a child cannot be expelled from the country due to his/her illicit entering of the country.

[80.] There are few special provisions concerning the detention of children. When placing a person into detention the police shall consider his/her age, health, social and family ties, religious, ethnic or national individuality. Women are separated from men, persons under the age of 18 are separated from adults. Family members can be placed together. Otherwise there are no exemptions guaranteed for children.

5.3. Family tracing programme

[81.] There is no special family tracing programme for children victims of trafficking in the Slovak Republic. However, there are some provisions concerning family reunification guaranteed by the Law on Welfare and Legal Protection of Children. The Appointed guardian of an unaccompanied child shall pursue tasks prescribed by law.⁸³ Such as:

- Informing the consular office of the country of usual residence of an unaccompanied child regarding measures adopted in favour of return of the child to the country of his/her residence and the request for his/her return or transfer to the country, if it is obviously a safe country and if the child is not subject to the Convention of Civil Aspects of International Child Abduction (1980),
- Communicating with the representative office of a country which is not the country of usual residence of the unaccompanied child but is where his/her parents or relatives resides to propose reunifying with a parent or relative.
- Filing a motion according to the Asylum Act⁸⁴ and arrange accommodation for the child in a refugee camp,

⁸¹ Article 62, Slovakia/zákon 48/2002 (13.12.2001).

⁸² Article 57 paragraph 10(a), Slovakia/zákon 48/2002 (13.12.2001).

⁸³ Article 29, Slovakia/zákon 305/2005 (25.05.2005).

⁸⁴ Slovakia/zákon 480/2002 (20.06.2002).

- Participating in the search for the parents or other family members of an unaccompanied child.

- [82.] All measures undertaken by the guardian in favour of the unaccompanied child must be adequate to the child's culture, language, religion and to the traditions of the country of his/her origin.
- [83.] According to ministerial decree assistance in voluntary return of the victim of trafficking to the country of origin is incorporated in the programme for protection and assistance to victims of trafficking.⁸⁵ However, such assistance does not guarantee the tracing of family members in the country of origin of a child victim.
- [84.] Moreover, the law does not require assessing a child's best interests concerning assistance in family reunification. There are only general provisions set up by law stating that "welfare and legal protection of children is a series complex of measures set up to safeguard the protection of a child necessary for his/her welfare and which respects the best interest of the child in terms of The Convention of the Rights of the Child."⁸⁶

5.4. Accommodation and other assistance for trafficked children

- [85.] A victim of trafficking is entitled to anonymous accommodation upon his/her request.⁸⁷ Accommodation is arranged by non-governmental organisations. If an unaccompanied child is not an asylum seeker, he/she is placed into a special institute for unaccompanied children. There is one such institute located in Trenčín – Horné Orechové which was established in the year 2005.⁸⁸ Though it is impossible to consider it as anonymous accommodation.
- [86.] Unaccompanied children are placed into a special institute upon court decision. The special institute operates under the same conditions as special institutes for orphaned children. The people responsible are obliged to respect a child's upbringing, cultural and religious differences.⁸⁹ The special institute shall arrange a medical examination, including diagnostic and laboratory

⁸⁵ Article 7 paragraph 2, Slovakia/nariadenie ministra vnútra 47/2008 (30.06.2008).

⁸⁶ Article 1 paragraph 2 (a), Slovakia/zákon 305/2005 (25.05.2005).

⁸⁷ Article 7 paragraph 2, Slovakia/nariadenie ministra vnútra 47/2008 (30.06.2008).

⁸⁸ <http://www.upsvar.sk/rsi/rsi.nsf/c3c0ad4d78aa88c4c1256b1700216001/30fcfbc4c941aa0dc1257163003b83f0?OpenDocument> (11.07.2008).

⁸⁹ Article 50, Slovakia/zákon 305/2005 (25.05.2005).

examinations, vaccinations and preventative measures assigned by the authority to protect public health.⁹⁰

- [87.] The special institute shall facilitate the learning of the Slovak language if it is appropriate and useful for the child. The special institute is obliged to find out (taking into account the age and mental state of a child) his/her opinion about all the child necessary concerns, especially his/her opinion about possible transfer, family reunification, return to country of origin, the granting of asylum status or the providing of supplemental protection. The institute shall find out such information prior to transfer, family reunification, return to the country of origin or the granting of asylum status of the child. The special institute shall also arrange proper translation.
- [88.] If a child victim fulfils the conditions set by the programme of assistance and protection of victims of human trafficking set up by the ministerial decree, a child shall be provided with complex care.⁹¹ Complex care shall include: protection from criminal surroundings, anonymous accommodation upon request, financial support, social, psychological and legal aid, health care and vocational training. Complex care is provided for 90 days when the victim is a citizen of the Slovak Republic, or for 40 days when the victim is a foreigner. If a victim cooperates with the police and/or prosecutor, he/she is provided with complex assistance for the whole period of the criminal investigation. The non-governmental organisation SKC DOTYK offers free re-qualification training for women from the Bratislava region.⁹²
- [89.] There is no statistical data available concerning the number of children receiving full health care, education or legal assistance. According to written responses from the relevant ministries no such information is recorded. Moreover, there are not only victims of child trafficking placed in the special institute but also other unaccompanied children staying in the Slovak Republic. In the year 2007 there were 380 unaccompanied children placed in the special institute and another 52 placed in other special institutes for orphaned children. Though it is unknown how many (if any) of these children were victims of trafficking.⁹³ If there exists any data it is collected by the Special institute in Trenčín, however they refuse disclose this due to the sensitive nature of the data.⁹⁴
- [90.] According to the Report on fulfilling tasks arising from the National plan of action against trafficking in human beings the relevant statistics concerning

⁹⁰ Article 31, Slovakia/zákon 305/2005 (25.05.2005).

⁹¹ Slovakia/nariadenie ministra vnútra 47/2008 (30.06.2008)

⁹² <http://www.doty.sk/01-profil/kurzy.php> (11.07.2008).

⁹³ Response of The Ministry of Social Affairs to the information request, 11.07.2008.

⁹⁴ This information is based on telephone inquiry with the representative of the Special Institute in Trenčín. We assume that disclosure is a result of the sensitiveness of data although this has not been confirmed by the representative who provided this information.

number of permission for tolerated residence is registered only since January 2007 and there was only one permission granted up to April 2007.⁹⁵

- [91.] There is a free national hotline to help victims of human trafficking the number is 0800 800 818 it is supervised by The Ministry of Interior and operated by T-mobile.⁹⁶ The number 116 000 is not in use.
- [92.] Another “non-stop” hotline is operated by the non-governmental organisation SKC DOTYK and the number is 0903 704 784.⁹⁷
- [93.] There are no other methods set up to report exploitation of child victims of trafficking. According to the Ministry of Justice such an activity is a crime and shall be reported directly to the police or prosecution offices.⁹⁸

⁹⁵[http://www.rokovania.sk/appl/material.nsf/0/F5A1E9CABC49EAD9C12572B10032F68B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/F5A1E9CABC49EAD9C12572B10032F68B/$FILE/Zdroj.html) (23.06.2008).

⁹⁶ Response of the Ministry of Interior to the information request, 02.07.2008.

⁹⁷ <http://www.dotyk.sk/01-profil/kurzy.php> (11.07.2008).

⁹⁸ Response of the Ministry of Justice to information request, 02.07.2008.

6. Best interests determination and durable solutions, including social inclusion/return

6.1. Best interests determination

- [94.] There has been no procedure formalised to identify durable solutions based on determining the best interests in the case of victims of child trafficking. There are only general provisions in the Law on Welfare and Legal Protection of Children which guarantee the inevitable protection of a child for his/her well-being and which respects his/her best interests in accordance with the Convention on the Rights of the Child (1989).⁹⁹
- [95.] An unaccompanied child is represented and assisted by the legally appointed guardian set out in the terms of the Law on Welfare and Legal Protection of Children. The guardian shall implement thorough methods to locate family or other relatives of the child and enable family reunification (including transfer to the country of origin or country of residence of the child) if it is a safe country. An unaccompanied victim of child trafficking is placed into a special institute for unaccompanied children or in a refugee camp.
- [96.] While a child is in a special institute (under the power of The Ministry of Social Affairs) he/she has the right to (depending on the age and mental state of the child) present his/her opinion. An unaccompanied child has the right to express opinions before any action is taken concerning his/her transfer, family reunification, return to the country of origin, applying for asylum status or providing supplementary protection. A child has the right for this to be translated into an understandable language. The employees at the special institute for unaccompanied children are obliged to respect the previous education of a child and his/her cultural and religious background.¹⁰⁰

6.2. Asylum protection for children victims of trafficking

⁹⁹ Article 1 and 2, Slovakia/zákon 305/2005 (25.05.2005).

¹⁰⁰ Article 50, Slovakia/zákon 305/2005 (25.05.2005).

- [97.] The appointed guardian shall assist an unaccompanied child with the application for asylum procedure (upon request of a child or due to the impossibility of return to the child's country of origin/residence). Once the asylum procedure has commenced the unaccompanied child is transferred from the special institute for unaccompanied children to a refugee camp. When a child is an applicant any interview can only be conducted in the presence of the appointed guardian. The guardian is obliged to inform the child before the interview any concerns regarding the importance and possible consequences of the interview in addition the guardian must help the child prepare for the interview.¹⁰¹
- [98.] The application of an unaccompanied child shall be assessed with appropriate knowledge concerning asylum procedure and also concerning any special needs of the child. The application of unaccompanied child cannot be rejected with an argument that it is manifestly unfounded. Asylum seekers with special needs, including unaccompanied children, are entitled to proper living conditions in the asylum facility.
- [99.] If the asylum seeker is refused asylum, he/she can be granted supplementary protection if there are serious grounds to believe that in the case of his/her return to the country of origin he/she will face the threat of serious injustice. This supplementary protection is applicable also in cases of victims of child trafficking.¹⁰²

6.3. Integration programmes

- [100.] In accordance with the ministerial decree and based upon the National plan of action against human trafficking there was a programme of support and protection for victims of human trafficking established. The programme consists of a number of detailed procedures stipulated in the decree¹⁰³ it is executed by the Ministry of Interior in cooperation with a non-governmental organisation or an international organisation. The main goals of the programme are to:
- Provide victims with assistance, to safeguard protection of their fundamental human rights, freedom and dignity and to
 - Motivate victims to provide testimony to help with the identification, investigation and conviction of the human trafficking offenders.¹⁰⁴

¹⁰¹ Article 6, Slovakia/zákon 480/2002 (20.06.2002).

¹⁰² Article 13a, Slovakia/zákon 480/2002 (20.06.2002).

¹⁰³ Slovakia/nariadenie ministra vnútra 47/2008 (30.06.2008).

¹⁰⁴ Article 1, Slovakia/nariadenie ministra vnútra 47/2008 (30.06.2008).

- [101.] A victim involved in the programme is guaranteed complete care including financial, social, psychological and legal assistance, translation, health care. The victim if foreign is provided with complete assistance during throughout the preparatory period in order to return to the country of origin (if the victim decides so) and assistance with the return. The victim if a Slovak citizen is also provided with a 90 day period for the reintegration process. However, there is no specialised programme for victims of child trafficking.
- [102.] There ministerial decree does not lay down any special provision for special needs of children assisted by the support and protection programme of victims of trafficking in human beings. Children with special needs (children coming from a different ethnic background, children with disabilities) should be treated according to the general provisions from the Law on Welfare and Legal Protection of Children.¹⁰⁵ The provisions concerning the stay of a child in the special institute for unaccompanied children should be applied analogically, i.e. the responsible authority shall respect previous child's upbringing and his/her cultural and religious differences.
- [103.] There have been a few integration projects realised in the Slovak Republic. The project "Migrating information centre for assistance with integration of migrants and victims of human trafficking into labour markets and into society" was realised by the International Organisation for Migration. The main goal of the "Programme of voluntary return or re-integration human traffic victims" executed by IOM is to create a mechanism for safe and dignified return to the Slovak Republic. The assistance given comprises of health care, psychological and social assistance and therapy, legal aid, re-qualification and labour integration. During the period from August 2006 to December 2007 there were 20 victims of general trafficking involved in the project.¹⁰⁶

¹⁰⁵ Slovakia/zákon 305/2005 (25.05.2005).

¹⁰⁶[http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/$FILE/Zdroj.html) (23.06.2008).

7. Prosecution

- [104.] Criminal Procedure Code encompasses a few specific provisions concerning the investigation of children. A child victim of trafficking shall be deemed a witness and all provisions concerning witnesses involve also child witnesses. A witness younger than 15 years old shall be examined thoughtfully and in a way that such an examination would not have to be repeated, especially if his/her testimony could adversely influence his/her mental and moral development. An additional person with pedagogical or educational skills, an expert or legitimate guardian shall be present during the examination. A child witness shall not be further examined except in an unavoidable situation and with prior consent of the prosecutor. It is not a violation of the investigation if such testimony is not repeated in the court hearing and only a written record of the testimony is presented. It is also possible to give testimony via radio or television broadcast.¹⁰⁷
- [105.] During a court hearing the judge may decide to examine a child witness instead of letting the party of proceedings (prosecutor, defender) do so. In some circumstances public and the accused can be expelled from a courtroom during the testimony and are informed of the testimony content afterwards. Questions from the accused to the witness are asked by the judge so the witness does not have to face the accused in person.¹⁰⁸
- [106.] An endangered witness (including a child) can be involved in the witness protection programme. An endangered witness shall mean a person who gives testimony in a criminal investigation to identify a criminal or to reveal other circumstances of the crime and due to such testimony his/her life or health is endangered. Identity of a protected witness can be hidden; testimony can be provided using special technical devices to change the witness's voice. It is impossible for direct confrontation with the accused.¹⁰⁹
- [107.] It is not possible to provide accurate statistics concerning the number of final convictions based on child trafficking cases. There are a few registered statistics from the Police force, the General Prosecutors Office, the Ministry of Interior or from the Ministry of Justice. However, the data differs and it is impossible to identify which statistics are correct and which are not. The cause of this confusion is due to two main reasons:
- There is no unified data collection and information register, each authority uses its own methodology and monitors different facts. In the year 2006 the

¹⁰⁷ Article 135, Slovakia/zákon 301/2005 (24.05.2005).

¹⁰⁸ Article 262, Slovakia/zákon 301/2005 (24.05.2005).

¹⁰⁹ Article 1 and 2, Slovakia/zákon 256/1998 (08.07.1998), article 125, Slovakia/zákon 301/2005 (24.05.2005).

on-line information system OBEĽ was created to guarantee coordinated data collection. This system is operated by the Ministry of Interior.¹¹⁰

- There is confusion over the definition of child trafficking in the Criminal Code. According to Slovak law “child trafficking” means illegal adoption¹¹¹ or the commending of a child to a third person for a reward, for the purpose of using the said child for work or for other purposes.¹¹² On the other hand trafficking in human beings also involves trafficking in children.¹¹³ However, for the purpose of data collection and statistics child victims of human trafficking are registered along with adult victims.

[108.] Victims of child trafficking are granted the same access to justice as any other victims of crimes; there are no special provisions in legislation concerning victims of child trafficking. Child victims with the assistance of their guardian and possibly a legal representative can participate in the criminal investigation. They have access to all the relevant files, they can also submit evidence, participate in court hearings, file appeals, complaints or other procedural measures for appeal.¹¹⁴

[109.] Victims of child trafficking as well as victims of other crimes can be compensated in accordance with the Act on Compensation of Victims of Violent Crimes.¹¹⁵ This law provides one-off financial compensation for victims who were harmed due to violent crimes. Harm to health shall mean also sexual abuse and sexual exploitation. The victim can claim compensation only after judgement in criminal proceedings is valid. Another possibility is to file a defamation case in terms of Civil Code and in addition to damage compensation file also for compensation of non-pecuniary damage.¹¹⁶

[110.] According to a statement from the Ministry of Justice there has not been a single claim for compensation filed to compensate victims of trafficking.¹¹⁷ However, according to unofficial information there was at least one claim filed by a victim of trafficking. This information has not been validated.

¹¹⁰[http://www.rokovania.sk/appl/material.nsf/0/F5A1E9CABC49EAD9C12572B10032F68B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/F5A1E9CABC49EAD9C12572B10032F68B/$FILE/Zdroj.html) (23.06.2008).

¹¹¹ Article 180, Slovakia/zákon 300/2005 (20.05.2005).

¹¹² Article 181, Slovakia/zákon 300/2005 (20.05.2005).

¹¹³ Article 179 paragraph 2, Slovakia/zákon 300/2005 (20.05.2005).

¹¹⁴ Slovakia/zákon 301/2005 (24.05.2005).

¹¹⁵ Slovakia/zákon 215/2006 (15.03.2006), Slovakia/zákon 255/1998 (02.07.1998).

¹¹⁶ Article 13, Slovakia/zákon 40/1964 (26.02.1964).

¹¹⁷ Response of the Ministry of Justice to the request for information, 02.07.2008.

8. Miscellaneous

[111.] The Slovak Republic adopted relevant international legal provisions concerning trafficking in human beings only recently and its experience is quite short. The first national plan on action against trafficking in human beings was adopted only in the year 2006. It is positive that the Expert group was created to coordinate all the activities related to the trafficking in human beings. Another positive aspect is the amount of budget allocated at The Ministry of Interior for the activities over the years 2008-2010.

[112.] However, there are still many weak points:

- The definition of child trafficking is misleading and confusing, it is covering illegal adoption, but is not applying to all cases of child trafficking.
- There are missing legal provisions guaranteeing victims non-criminalisation; actual relevant legal provisions guarantee only possible decrease of the sentence, seldom such a person can be liberated from the charges, despite his/her criminal activities were consequences of his/her exploitation.
- Legal provisions concerning reflection period for a victim are not in accord with the international documents.
- Legal provisions concerning complex care for a victim are favourable only to victims who cooperate during investigation of trafficking.
- There is a lack of relevant information in the general society concerning trafficking. Statistics of the authorities concerned are discrepant and unreliable, because they are disunited. This is most probably due to lack of united monitoring and data collection system, as well as due to confusing definition of the crime which does not enable complex monitoring of children trafficking.
- The general awareness of the problem of trafficking should be much higher, there was a campaign concerning trafficking in human beings but its visibility was quite low.

9. Good practice

[113.] There is nothing to report as a good practice.

Annex – Tables and Statistics

[114.] Data concerning trafficking in human beings gathered by the General Prosecutor Office:¹¹⁸

	2000	2001	2002	2003	2004	2005	2006	2007
Number of prosecuted / old Criminal Code ¹¹⁹	33	17	20	54	34	44	25	24
Number of prosecuted / new Criminal Code ¹²⁰	-	-	-	-	-	-	3	4
Number of accused / old Criminal Code	24	8	5	34	14	30	9	9
Number of accused / new Criminal Code	-	-	-	-	-	-	2	2
Number of convicted / old Criminal Code	22	6	5	5	8	4	19	3
Number of convicted / new Criminal Code	-	-	-	-	-	-	0	1

¹¹⁸ <http://www.genpro.gov.sk/index/go.php?id=5> (11.07.2008).

¹¹⁹ Slovakia/zákon 140/1961 (29.11.1961).

¹²⁰ Slovakia/zákon 300/2005 (20.05.2005).

[115.] Data concerning child trafficking gathered by the General Prosecutor Office:

	2000	2001	2002	2003	2004	2005	2006	2007
Number of prosecuted, Article 180 of Criminal Code	data not available	data not available	data not available	data not available	data not available	data not available	1	1
Number of prosecuted, Article 181 of Criminal Code	data not available	data not available	data not available	data not available	data not available	data not available	1	0
Number of accused, Article 180 of Criminal Code	data not available	data not available	data not available	data not available	data not available	data not available	1	1
Number of accused, Article 181 of Criminal Code	data not available	data not available	data not available	data not available	data not available	data not available	1	0
Number of convicted, Article 180 of Criminal Code	data not available	data not available	data not available	data not available	data not available	data not available	0	1
Number of convicted, Article 181 of Criminal Code	data not available	data not available	data not available	data not available	data not available	data not available	0	0

[116.] Data gathered by the specialised department of the Presidium of the Police office concerning solved crimes of trafficking in human beings:¹²¹

	2000	2001	2002	2003	2004	2005	2006	2007
Number of cases	data not available	data not available	data not available	data not available	27	14	19	13
Solved cases					18	4	6	4
Number of offenders being criminally prosecuted (male and female)	data not available	data not available	data not available	data not available	21 (14/7)	6 (6/0)	11 (8/3)	11 (10/1)
Victims (male and female)	data not available	data not available	data not available	data not available	33 (4/29)	18 (2/16)	31 (2/29)	10 (0/10)
Victims (age seven to 15)	data not available	data not available	data not available	data not available	3	0	1	0
Victims (age 16 to 18)	data not available	data not available	data not available	data not available	6	4	7	3
Victims (age 19 to 21)	data not available	data not available	data not available	data not available	6	3	3	3
Victims (age over 21)	data not available	data not available	data not available	data not available	18	11	20	4

¹²¹ National plan of action against trafficking in human beings for years 2008-2010
[http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/$FILE/Zdroj.html) (25.06.2008)

[117.] Data gathered by the Úrad justičnej a kriminálnej polície Prezídia Policajného zboru [Office of judicial and criminal police, of the Presidium of the Police Office]:¹²²

	2000	2001	2002	2003	2004	2005	2006	2007
Number of cases	data not available	data not available	data not available	data not available	data not available	14	11	13
Number of offenders being criminally prosecuted (male and female)	data not available	data not available	data not available	data not available	data not available	13 (11/2)	20 (16/4)	16 (14/2)
Victims (male and female)	data not available	data not available	data not available	data not available	data not available	18 (2/16)	21 (0/21)	15 (0/15)

¹²² National plan of action against trafficking in human beings for years 2008-2010 [http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/$FILE/Zdroj.html) (25.06.2008)

[118.] Data gathered by the Ministry of Justice of the Slovak Republic:¹²³

	2000	2001	2002	2003	2004	2005	2006	2007 (first 6 months)
Number of convicted (old Criminal Act), (male/female)	13	6	6	7	6	6 (5/1)	15 (11/4)	4 (3/1)
Number of convicted (new Criminal Act), (male/female)	0	0	0	0	0	0	1 (1/0)	0
Number of victims (women)	9	3	2	7	4	data not available	data not available	data not available

¹²³ National plan of action against trafficking in human beings for years 2008-2010 [http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/$FILE/Zdroj.html) (25.06.2008); National plan of action against trafficking in human beings for years 2006-2007 [http://www.rokovania.sk/appl/material.nsf/0/382ED86F9654A4EEC12570FB003E58EF/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/382ED86F9654A4EEC12570FB003E58EF/$FILE/Zdroj.html)

[119.] Data collected by the Ministry of Interior:¹²⁴

	2000	2001	2002	2003	2004	2005	2006	2007
Number of crimes	16	6	17	28	27	data not available	data not available	data not available
Solved cases	13	5	16	16	18	data not available	data not available	data not available
Number of convicted (offenders)	13	14	26	46	26	data not available	data not available	data not available
Number of victims (male/female)	20 (0/20)	9 (0/9)	24 (0/24)	43 (1/42)	33 (4/29)	data not available	data not available	data not available

¹²⁴ National plan of action against trafficking in human beings for the years 2006-2007
[http://www.rokovania.sk/appl/material.nsf/0/382ED86F9654A4EEC12570FB003E58EF/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/382ED86F9654A4EEC12570FB003E58EF/$FILE/Zdroj.html)

[120.] Designated budget for certain activities relevant to anti-trafficking measures:¹²⁵

	2008	2009	2010
International cooperation	400,000 SKK	400,000 SKK	400,000 SKK
Information campaign for wide public	1,000,000 SKK	1,000,000 SKK	1,000,000 SKK
Promotional materials	150,000 SKK	150,000 SKK	150,000 SKK
National free phone line	1,000 SKK	1,000 SKK	0
Information campaign oriented to demand part of trafficking	0	0	500,000 SKK
Education of selected members of Police office, of pedagogical and psychological advisors on Police schools	200,000 SKK	200,000 SKK	200,000 SKK
Education of selected employees of health department	200,000 SKK	200,000 SKK	200,000 SKK
Education of selected employees of education department	200,000 SKK	200,000 SKK	200,000 SKK
Education of selected employees of social affairs department	200,000 SKK	200,000 SKK	200,000 SKK
Education of selected employees of foreign affairs department	200,000 SKK	200,000 SKK	200,000 SKK
Education of selected employees of department of culture	200,000 SKK	200,000 SKK	200,000 SKK
Education of selected representatives of registered denominations	200,000 SKK	200,000 SKK	200,000 SKK
Education of selected employees of municipal police	200,000 SKK	200,000 SKK	200,000 SKK
Education of selected Police members – identification of victims and offenders	150,000 SKK	150,000 SKK	150,000 SKK
Promotional material for victims to improve their self-identification as a victim of trafficking	0	30,000 SKK	

¹²⁵ National plan of action against trafficking in human beings for years 2008-2010
[http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/\\$FILE/Zdroj.html](http://www.rokovania.sk/appl/material.nsf/0/DFEE85DAC7D71C70C12574390036224B/$FILE/Zdroj.html) (25.06.2008)

Complex aid for the victims (including social, medical, legal, psychological, financial assistance)	5,000,000 SKK	5,000,000 SKK	5,000,000 SKK
Promotional material for the victims concerning their rights	0	100,000 SKK	0